

1
2
3
4
5
6
7 STRIKE 3 HOLDINGS, LLC,
8 Plaintiff,
9
10 v.
11 JOHN DOE SUBSCRIBER ASSIGNED IP
12 ADDRESS 162.236.13.172,
13 Defendant.

14
15
16 Case No. 21-cv-05699-JCS
17
18

**19 ORDER GRANTING EX PARTE
20 APPLICATION FOR LEAVE TO
21 SERVE A THIRD-PARTY SUBPOENA
22 PRIOR TO A RULES 26(F)
23 CONFERENCE**

24 Re: Dkt. No. 7
25
26
27
28

29 Plaintiff Strike 3 Holdings, LLC moves ex parte for leave to serve a third party subpoena
30 prior to a Rule 26(f) conference. The Court being duly advised does hereby FIND, ORDER
31 AND ADJUDGE:

32 1. Plaintiff has established that “good cause” exists for it to serve a third party
33 subpoena on AT&T U-verse (“AT&T”). *See UMG Recording, Inc. v. Doe*, 2008 WL 4104214,
34 *4 (N.D. Cal. 2008); and *Arista Records LLC v. Does 1-19*, 551 F. Supp. 2d 1, 6-7 (D.D.C. 2008).

35 2. Plaintiff may serve AT&T with a Rule 45 subpoena commanding AT&T to provide
36 Plaintiff with the true name and address of the Defendant to whom AT&T assigned the IP
37 address 162.236.13.172. Plaintiff shall attach to any such subpoena a copy of this Order.

38 3. Plaintiff may also serve a Rule 45 subpoena in the same manner as above on any
39 service provider that is identified in response to a subpoena as a provider of Internet services to
40 Defendant (together with AT&T, the “ISPs”).

1 4. IT IS FURTHER ORDERED that subpoenas authorized by this order and issued
2 pursuant thereto shall be deemed appropriate court orders under 47 U.S.C. § 551. In particular, 47
3 U.S.C. § 551(c)(2)(B) provides as follows:

4 (c) Disclosure of personally identifiable information

5 [. . .]

6 (2) A cable operator may disclose such information if the disclosure is—
7 [. . .]

8 (B) subject to subsection (h) [relating to disclosures to governmental
9 agencies] of this action, made pursuant to a court order authorizing such
disclosure, if the subscriber is notified of such order by the person to whom
the order is directed

10 This order is an order authorizing such disclosure.

11 5. **IT IS FURTHER ORDERED** that each ISP will have 30 days from the date of
12 service upon it to serve each of its subscriber(s) whose identity information is sought with a copy
13 of the subpoena and a copy of this order. The ISPs may serve the subscribers using any
14 reasonable means, including written notice sent to the subscriber's last known address, transmitted
15 either by first-class mail or via overnight service.

16 6. **IT IS FURTHER ORDERED** that each subscriber and each ISP shall have 30
17 days from the date of service upon him, her or it to file any motions in this court contesting the
18 subpoena (including a motion to quash or modify the subpoena). If the 30-day period after service
19 on the subscriber lapses without the subscriber or the ISP contesting the subpoena, the ISP shall
20 have 10 days to produce to Plaintiff the information responsive to the subpoena with respect to
21 that subscriber.

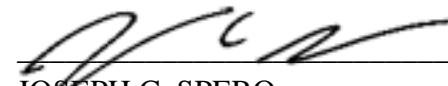
22 7. **IT IS FURTHER ORDERED** that any ISP that receives a subpoena shall preserve
23 all subpoenaed information pending the ISP's delivering such information to Plaintiff or the final
24 resolution of a timely filed motion to quash the subpoena with respect to such information.

25 8. **IT IS FURTHER ORDERED** that any information disclosed to Plaintiff in
26 response to a subpoena may be used by Plaintiff solely for the purpose of protecting its rights
27 under the Copyright Act, 17 U.S.C. § 101 et seq.

1 9. **IT IS FURTHER ORDERED** that any name or other personal identifying
2 information of any current or proposed defendant shall be filed UNDER SEAL in all filings and
3 not otherwise disclosed.

4 **IT IS SO ORDERED.**

5
6 Dated: August 6, 2021

7
8 
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JOSEPH C. SPERO
Chief Magistrate Judge